



Office of the Staff Judge Advocate LEGAL SERVICES U.S. Army Japan and I Corps (Fwd)

First-Time Homebuyer Tax Credit Extended for Overseas Personnel

Members of the Armed Forces and certain federal employees serving outside the U.S. have an extra year to buy a principal residence in the U.S. and still qualify for the credit. An eligible taxpayer must buy or enter into a binding contract to buy a home by April 30, 2011, and settle on the purchase by June 30, 2011.

Tax Credit in General

For first time homebuyers, there is a refundable credit equal to 10 percent of the purchase price up to a maximum of \$8,000 (\$4,000 if married filing separately). A first-time homebuyer is an individual who, with his or her spouse, if married, has not owned any other principal residence for three years prior to the date of purchase of the new principal residence for which the credit is being claimed.

There are several situations in which a taxpayer cannot claim the credit: The taxpayer is a nonresident alien; the taxpayer purchases a home located outside the United States; the taxpayer sells the home or if it stops being the taxpayer's principal residence in the year the taxpayer purchased the home; the taxpayer receives the home, or any portion of the home, as a gift or as an inheritance; and the taxpayer exceeds the income limits.

The Worker, Homeownership, and Business Assistance Act of 2009 extended and expanded the tax credit for first time homebuyers that had been created in 2008. The new law extends the deadline for qualifying home purchases from Nov. 30, 2009, to April 30, 2010. If a buyer enters into a binding contract by April 30, 2010, the buyer has until June 30, 2010, to settle on the purchase.

Income Limitation

For people who purchase homes after Nov. 6, the full credit will be available to taxpayers with a modified adjusted gross income (MAGI) up to

\$125,000, or \$225,000 for joint filers. MAGI is your adjusted gross income plus the total of certain foreign earned income. Those with MAGI between \$125,000 and \$145,000, or \$225,000 and \$245,000 for joint filers, are eligible for a reduced credit. Those with higher incomes do not qualify. However, for homes purchased before Nov. 7, 2009, existing income limits remain in place. The full credit is available to taxpayers with MAGI up to \$75,000, or \$150,000 for joint filers. Those with MAGI between \$75,000 and \$95,000, or \$150,000 and \$170,000 for joint filers, are eligible for a reduced credit. Those with higher incomes do not qualify.

Selling the Home and Other Events that Require Repaying the Credit

Taxpayers who bought homes in 2009 or 2010 and sold them within a 36 month period that begins on the purchase date, must repay the credit. They also must repay the credit if they convert the home to a business or rental property or the lender forecloses on the home. The taxpayer repays the credit by including the amount of the credit as additional tax on the tax return for the year in which the repayment event occurs. However, taxpayers do not have to repay all or a portion of the credit under the following circumstances:

- If taxpayers sell the home to someone who is not related to them, the repayment in the year of sale is limited to the amount of gain on the sale;
- If the home is destroyed, condemned, or disposed of under threat of condemnation and the taxpayer acquires a new principal residence within 2 years of the event, the taxpayer does not have to repay the credit; and
- If, as part of a divorce settlement, the home is transferred to a spouse or former spouse, the spouse who receives the home is responsible for repaying the credit if required.

ZAMA LEGAL ASSISTANCE OFFICE

Office of the Staff Judge Advocate
USARJ & I Corps (F)
Unit 45005 APO, AP 96343-5005
DSN: 315 263-4698
Commercial: 81-46-407-4698

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If you have any
questions, comments,
or suggestions, please
contact the Legal
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263-4698.



Travel Authorization - Expired Green Card

U.S. immigration regulations authorize certain alien spouses or minor children (family members) who are returning to an unrelinquished, lawful permanent residence in the U.S., to present a valid or expired alien registration receipt card (an I-151 or I-551) in lieu of an immigrant visa, provided that: the family member has resided abroad during the official overseas assignment of a direct hire U.S. government civilian employee or Servicemember; the family member is preceded by, accompanying, or following, to join the sponsor within 4 months of the sponsor's return to the U.S.; the family member is not a dependent parent, parent-in-law, child over 21, or ward; and no family member of a non-U.S. government or locally-hired sponsor benefits from this authorization.

The authorized family member must present to the carrier the following documents to facilitate boarding: a valid passport; a valid or expired I-151 or I-551; a copy the sponsor's orders for an official overseas assignment; and a U.S. government identity card.

Separation Agreements: What they do and don't do

Servicemembers and civilians employed by the military face hardships that can stress and fracture even the strongest of marriages. In these circumstances, some couples who are not ready to make the ultimate decision to get a divorce instead try a trial separation. Separation agreements, prepared with the help of a Legal Assistance Attorney, resolve certain issues and set the ground rules for the separation or subsequent divorce. Separation agreements are contracts between spouses in which they resolve certain matters such as property division, debts, child custody, and child and spousal support.

While Legal Assistance Attorneys cannot represent either spouse in a divorce proceeding, they can assist in the preparation of a separation agreement. This agreement is binding on the parties just like any other contract. Because it is a contract, both spouses must sign voluntarily. A separation agreement does not necessarily make it easier to get a divorce; only some states consider it proof that you have been living separate and apart from your spouse. Other provisions that can be included in the separation agreement include who can claim any children as exemptions for income tax purposes, non-harassment provisions, visitation times, and whether or how far a spouse can move when child custody is an issue. In the event of a divorce, a court will generally presume that the terms in the agreement are fair and reasonable, but the court can modify child support, custody, and visitation in the best interests of the child or to follow any child support schedule mandated by state law.